



Thomas A. Schatz
President

Chairman Julius Genachowski
Commissioner Meredith Attwell Baker
Commissioner Mignon Clyburn
Commissioner Michael J. Copps
Commissioner Robert McDowell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

April 7, 2010

Dear Chairman Genachowski and Commissioners:

Citizens Against Government Waste (CAGW) is writing this letter in response to the Federal Communications Commission's (FCC) 09-191 request in the matter of preserving the open Internet broadband industry practices. CAGW is a private, non-partisan, nonprofit organization representing more than one million members and supporters nationwide.

On January 13, 2010, CAGW filed comments urging the FCC to tread lightly on the net neutrality issue and consider its significant impact on America's flourishing broadband industry. CAGW reaffirms its opposition to the proposed net neutrality regulations and urges the FCC to steer clear of a reclassification of broadband under Title II of the Communications Act.

The Internet has thrived in an open and competitive market to become a vital part of society and the global economy. There has been incredible growth in both the speed and quality of the web, largely because the government has resisted onerous regulations. According to the World Bank's Development Indicators, Internet users as a percentage of U.S. population skyrocketed from 0.8 percent in 1990 to more than 72 percent in 2008. Clearly, the light regulatory model adopted in the 1990s continues to work as millions of Americans utilize high speed broadband.

Although fierce competition in the marketplace has kept prices low and consumer choices plentiful, the FCC plans to forge ahead with implementing a non-discrimination rule that would prohibit providers from selectively blocking or slowing web content or applications, and a transparency rule that would require providers to share network management practices with consumers. Employing these new rules would prohibit Internet providers from acting as "gatekeepers" of web content.

The notion of equality on the Internet may sound reasonable, but net neutrality is instead an attack on private sector business models. The FCC's new rules would require providers to treat all web traffic equally and would prohibit them from restricting access to illegal content. Providers

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would also be barred from slowing access to services or sites that consume excessive bandwidth or are offered by rivals. This policy will ultimately inhibit broadband providers from offering expedited delivery speeds at higher prices, a choice that should be up to consumers.

Last year, Comcast was censured by the FCC for violating the agency's net neutrality principles when it slowed traffic for some subscribers who were downloading big files that were clogging the network. Comcast defended its case in court claiming that providers should be allowed to maintain their networks as necessary to ensure quality service for their customers. On April 6, 2010 the U.S. Court of Appeals for the District of Columbia ruled that the FCC lacked the authority to require Comcast to treat all Internet traffic equally on its network.

This verdict should be a wake-up call to the FCC that mandating these stringent net neutrality rules is an over-reach of the agency's authority and any further efforts to impose similar policies will undoubtedly be met with steep legal challenges.

Proponents of net neutrality want the online world to be forced "open" at the expense of successful Internet providers. Legal issues aside, net neutrality supporters fail to recognize the many tradeoffs to "openness" such as increased spam, fewer privacy controls, and slower service. Regulation of the Internet would prevent carriers from managing their own networks, including the ability to curtail viruses and other harmful content. Forcing wireless carriers to expose their networks to data-heavy applications like streaming video, graphic-rich games, and movies and music downloads, would only exacerbate the problem, slowing service and potentially causing other disruptions for customers.

Perhaps most importantly, regulating the Internet would decrease incentives for investment and innovation. In 2009, AT&T's U.S. capital investments totaled \$18 billion, the highest of any company. The looming threat to limit what telecom companies can charge and to whom will undoubtedly discourage the large investments that have helped the Internet expand so rapidly.

In light of jurisdictional questions and looming legal challenges, net neutrality proponents are calling for the FCC to reclassify broadband as a Title II service, imposing landline-style regulations on Internet providers that could include price regulation, service quality controls, and technological mandates. However, Title II classification would be counterproductive. The non-discrimination requirements applicable to Title II services would deny providers the flexibility to enter into voluntary business agreements to help recover the costs of building next-generation networks. Instead, these additional costs will be forced onto consumers, ultimately discouraging broadband usage and expansion.

Net neutrality proponents are desperately trying to justify an unnecessary government intrusion into the free market and attempt to solve a problem that does not exist. The broadband industry is already a competitive market, and the FCC's interference will only stifle Internet innovation, limit the dissemination of knowledge and ideas, and adversely affect economic growth. CAGW strongly urges the Commission to reconsider its regulatory approach and instead make way for the competitive market that has been so vital to the success of the Internet.

Sincerely,



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